



MINUTES - Draft

City of Flagstaff
PLANNING & ZONING COMMISSION
4:00 PM– Wednesday, September 11, 2013
City of Flagstaff, Council Chambers

CALL TO ORDER

Chairman Carpenter called the meeting to order at 4:06 p.m.

COMMISSION MEMBERS:

PRESENT: David Carpenter, Chairman; Paul Moore; Jim McCarthy; Justin Ramsey;
Tina Pfeiffer (joined the meeting at 7:15 pm)

ABSENT: Stephen Dorsett, Vice Chairman; Steve Jackson;

CITY STAFF:

Mark Sawyers, Staff Liaison
Kimberly Sharp, Comprehensive Planning Manager
Roger E. Eastman, AICP, Comprehensive Planning and Code
Administrator
Becky Cardiff, Recording Secretary

I. GENERAL BUSINESS

A. PUBLIC COMMENT

None.

B. APPROVAL OF MINUTES

1) Special meeting of September 4, 2013.

Motion: Move to approve the minutes of the Special Meeting of September 4, 2013, as submitted. Action: Approve Moved by: Commissioner McCarthy Seconded by: Commissioner Ramsey. Motion carried unanimously.

II. Public Hearing

1. ZONING MAP AMENDMENT FOR ASPEN PLACE AT SAWMILL

Pages 1-69

Address:	601 East Piccadilly Drive
Assessor's Parcel Number:	104-19-125, -126, -127, -128, -129, -130, -131, and Tract EE
Property Owner:	Flagstaff Aspen Place, LLC
Applicant:	Land Development Strategies, LLC
Application Number:	PC REZ 13-0001
City Staff:	Elaine Averitt
Action Sought:	Zoning Map Amendment (Conditional)

A proposed zoning map amendment to the official Zoning Map for approximately 3.15 acres of Highway Commercial (HC) (conditional) zone located at 601 East Piccadilly Drive on parcel land to a mixed use development consisting of one five-story building, with 33,000 square feet of retail at the first floor level, a five-story parking garage, and 222 luxury apartments.

Ms. Averitt gave a PowerPoint Presentation on the proposed project and answered questions from the Commissioners. Mr. Sawyers was present and answered questions from the Commissioners.

Brenden O'Leary, representative for the developer and investment group, gave a brief introduction to the project and introduced Bill Prelogger, architect for proposed project. Mr. Preglogger gave a PowerPoint presentation detailing the project and answered questions from Commissioners.

Reid Miller, City of Flagstaff Traffic Engineer, was present and answered Commissioners questions

Rick Schueller, Civil Engineer representing the applicant, answered questions from Commissioners on drainage.

Motion: Motion to open the public hearing Moved by: Commissioner Moore Seconded by: Commissioner McCarthy. Motion carried unanimously.

Public Comment: None

Motion: Motion to close the public hearing Moved by: Commissioner McCarthy Seconded by: Commissioner Moore. Motion carried unanimously.

Discussion was held about the color of the building materials. Sarah Darr, Housing Program Manager City of Flagstaff, was present and answered questions about affordable housing.

Motion: Motion to forward to City Council for approval with Staff Conditions and a stipulation that the color of the parking garage be complimentary to the Residential and Commercial portion of the building Moved by: Commissioner McCarthy Seconded by: Commissioner Moore. Motion carried unanimously.

2. Public hearing/discussion/possible action regarding proposed amendments to the Flagstaff Zoning Code, Division 10-20.50 (Amendments to the Zoning Code Text and the Zoning Map) and Chapter 10-80 (Definitions).

Mr. Eastman gave a description of the proposed amendment to the Zoning Code.

Motion: Motion to open the public hearing Moved by: Commissioner McCarthy Seconded by: Commissioner Moore. Motion carried unanimously.

Public Comment was made as follows:

Richard Bowen, representing ECONA, Mr. Bowen believes this is a quality process that will create job growth and quality employers to Flagstaff. Mr. Bowen gave examples of several companies that will be expanding and using the rezoning process in the near future. He also gave examples of companies that chose not to come to Flagstaff because of the complex rezoning process as one of the reasons.

Keri Silvyn, Tucson, Az, gave an example of a property that has a zoning not in accordance with the Regional Plan that the property owner believes they would not be able to rezone with the current process. Ms. Silvyn stated she believes the amendment will help the community secure quality employers. She believes the amendment will ensure at the rezoning stage that there is an understanding of the impacts of the infrastructure and it balances the interests at stake. Ms. Silvyn answered questions from Commissioner Moore.

Mike Sistak, Government Affairs Director, Flagstaff Chamber of Commerce, gave a statement on behalf of Ms. Julie Pastrick, Chamber President; she thanked the City Council, stakeholders and Commission for work on amendment. Ms. Pastrick is in favor of the amendment to eliminate some of the upfront costs and asked commission for their support.

Marilyn Weissman, representing Friends of Flagstaff Future, believes there is more to why businesses are not here not just the rezoning process. She referred to the previous project that used the current rezoning process and that the developer complimented the City Staff on the process. She believes owners want to profit from rezoning and developers want to spend less money and this new process will be tedious and complicated. She believes the current process works.

Nat White, resident, submitted a written comment that is attached hereto.

Tish Bogan-Ozman, resident, is concerned for the natural and cultural resources. She believes that an impact study for those needs to be done when making the decision on the use and before rezoning the property.

Motion: Motion to close the public hearing Moved by: Chairman Carpenter Seconded by: Commissioner McCarthy. Motion carried unanimously.

Extensive discussion was held on the proposed amendment.

Motion: Motion to recommend approval of the proposed amendments to Division 10-20.50 (Amendments to the Zoning Code Text and the Zoning Map) as described in the staff report Moved by: Chairman Carpenter Seconded by: Commissioner Ramsey. Motion to Amend: Motion to amend the primary motion to include the following revised submittal requirements applicable to all projects i.e. small, medium, large, and multi-phased scale projects: (1) a three-dimensional bulk and mass analysis/visualization of the project; (2) a maximum building envelope shall be defined for all proposed uses; and, (3) a minimum boundary of protected natural resources shall be defined based on preliminary resource calculations. Moved by: Commissioner Moore Seconded by: Commissioner McCarthy. Motion to amend carried unanimously, 5-0. Primary motion to recommend approval of the proposed amendments to Division 10-20.50 (Amendments to the Zoning Code Text and the Zoning Map) as described in the staff report together with the amendments proposed by Commissioner Moore approved 4-1 (Commissioner McCarthy opposed).

Pages 103-165

3. Public hearing/discussion/possible action regarding proposed amendments to the Flagstaff Zoning Code, Division 10-50.100, Sign Standards with specific reference to a new Section 10-50.100.080.E (Flagstaff Mall and Marketplace District).

City Staff: Roger E. Eastman AICP, Comprehensive Planning and Code Administrator

Mr. Eastman gave a brief description of the proposed amendment to the Zoning Code.

Motion: Motion to open the public hearing Moved by: Commissioner McCarthy Seconded by: Commissioner Moore. Motion carried unanimously.

Public Comment: none

Motion: Motion to close the public hearing Moved by: Chairman Carpenter Seconded by: Commissioner Moore. Motion carried unanimously.

Discussion was held on the proposed amendment. Mr. McCarthy submitted a written statement which is attached hereto.

Motion: Motion to recommend that the City Council not approve the proposed amendments to Division 10-50.100 (Signs Standards) by adding a new Section 10-50.100.080.E (Flagstaff Mall and Marketplace District) Moved by: Commissioner McCarthy Seconded by: Commissioner Ramsey. Motion carried unanimously.

4.Draft Flagstaff Regional Plan 2030

City Staff: Kim Sharp, Comprehensive Planning Manager, Community Development

Ms. Sharp discussed the schedule for the City Council public hearings.

Discussion was held on possible meeting dates to move the Regional Plan discussion due to the time. The Regional Plan discussion will be tabled until the September 25th meeting.

III. MISCELLANEOUS ITEMS TO/FROM COMMISSION MEMBERS

None given

ADJOURNMENT

The meeting was adjourned at 8:10 p.m.

ATTACHMENTS:

Flagstaff Planning and Zoning Commission
Meeting for 11 September 2013, 4:00 p.m., Council Chambers
Agenda Item II-2, Flagstaff Mall and Marketplace Sign

Statement from Jim McCarthy (Section 10-50.100.080.E):

The issue here is should we recommend that an otherwise illegal off-site sign be allowed for one developer. My concerns are several.

First, the public has been completely left out of the process, at least until it was put on the Planning and Zoning Commission agenda. Having the commission "make a recommendation" to council may be no more than a formality, considering that the previous council already made a private commitment to the land owner. Considering that the newly elected council may reconsider, it is imperative that this commission provided an independent thought-out recommendation.

Second, the proposal on the table today is contrary to the long-standing city policy to not allow billboards. Just this year, former city employee Paul Jones died. Paul spent city resources and a lot of his own energy in the effort to remove billboards from this city. The impressive viewshed we have in our built environment is to the credit of Paul and other city leaders, and also to the cooperation of many commercial interests.

Third, the one land owner is being given an opportunity that essentially no other land owner is allowed. Off-site signs are not allowed. The one exception that I know of is the Autopark sign on Route 66.

A basic tenant of our government is that all persons will receive equal treatment under the law. Under that principle, this proposal is quite possibly illegal. In fact, under the 14th amendment to our national constitution, it may be unconstitutional because it does not provide "equal protection of the law."

Lastly, I had some concern that this case will create a precedent. After consideration, I have concluded that it will not create a precedent. I say this because this case was decided under duress and not as part of a well-considered policy change. I consider this and the Autopark cases to be isolated incidents with clearly non-typical circumstances.

That said, certain city council members *have* stated that they intend to change the sign code and the approach we have taken for the last decades.

Regardless of the appropriateness of the sign otherwise, I also have concerns that since the sign will be on city property, that the sign will be tax-free to the developer and the city will be responsible for at least some aspects of the maintenance, an unusual and inappropriate situation.

In closing, I would like to summarize with three points. First, I will quote from the draft Flagstaff Regional Plan. "Good government processes lead to transparency and consistent decision making." (See draft of Aug 2013, Page XIV-4.) Support for this case would be in obvious contradiction to that regional plan principle.

Second, I will state that allowing one developer a sign that no other developer could legally build is wrong.

And third, the City of Flagstaff spent significant resources getting rid of billboard blight; we should respect that.

Thank you for listening.

PS:

After reading the prepared statement, I informally told the story of how a legislative body made an inappropriate decision and then reversed it. The case (*Illinois Central Railroad Co. v. Illinois*, decided in 1892) went to the U.S. Supreme Court. The court determined that in the case the legislative body wrongly granted a fee interest in the Chicago waterfront to a private railroad company and that because of the public trust doctrine, they could reverse the decision.

The analogy here is that there are certain things the city council cannot appropriately decide, e.g. agreeing to special treatment of certain landowners against the doctrine of equal treatment under the law, and that the council can (and should) reverse the former inappropriate decision.

David Carpenter

From: Tammy Bishop <tbishop@flagstaffaz.gov>
Sent: Monday, September 09, 2013 2:38 PM
Subject: Planning & Zoning Commission 9-11-13
Attachments: 09-11-13 P&Z Agenda.pdf

Importance: High

Good Afternoon Commission,
Please read the letter of recommendation below from a concerned citizen.
I have attached the agenda for Wednesday's meeting.

Thank you,
Tammy

From: Kathy Jenkins [<mailto:jenkins4flag@gmail.com>]
Sent: Sunday, September 08, 2013 5:42 PM
To: Tammy Bishop
Subject: Information for Planning & Zoning Commission 9-11-13

Please forward to the planning and zoning commission.

To Planning & Zoning Commission:

As a retired Flagstaff City Planner with 24 years of service, I would suggest the Commission send a recommendation of denial to the City Council on the staff proposal to change the rezoning submittal procedures.

Historically, rezoning cases of the 1980's would place the developer and the neighborhoods against each other. The hostility and confusion stemmed from a lack of information brought to the public review process. As members of the Planning & Zoning Commission, I would recommend that you not place yourselves, staff, developer and most importantly the concerned citizens (neighborhoods) in this situation.

With the adoption of the Land Development Code, the submittal requirements for a rezoning case increased. The cases brought forward to Public Hearing provided the necessary information for citizens of Flagstaff, Commissions and Council to support sound rezoning requests.

Those stricter requirements for rezoning submittals were amended in 2011 by the adoption of small, medium and large scale rezoning proposals. Based on the size of development being proposed the submittal requirements are either geared up or down.

This tiered process seems reasonable, a compromise between the 1972 Zoning Code and the original Land Development Code. I understand that only one rezoning request which was initiated by the City has been processed using the tiered submittal requirements.

The tiered process should be tested with upcoming rezoning requests before it's amended.

I understand and respect the Council's desire to fast track rezoning requests given the recent recession, but my past experience would discourage this approach. The most successful cases historically have taken a professional team of developers, architects, engineers and planners providing adequate information to the citizens of Flagstaff.

I appreciate the opportunity to submit my thoughts on this matter.

Sincerely,
David Reed Jenkins
1030 E. Appalachian Road
Flagstaff, AZ 86004
928-6073938

P&Z Commission,

9-11-2013

I am for smart, well planned growth. I am also for clear, efficient rezoning processes that support well planned growth and protect the investments and the values of our city.

Since the fiasco of the first Walmart development, and the associated revamping of the building codes, Flagstaff has demonstrated successful well planned growth. Walmart was the poster child for the bumper sticker "Don't Phoenix Flagstaff". The zoning change that allowed that to happen occurred with a concept plan, a large resort on rolling forested hills. The scar is healing and most people have forgotten what could have been, a shopping and hotel area that reflects Flagstaff.

As much as I have read the draft of the proposed changes before you today, I can not convince my self that we are not making Flagstaff vulnerable to zoning changes that can easily be driven by short term profit rather than good and long term planning. This is not painting all developers with the same brush. Rules that may seem burdensome are usually for those interested in beating the system, not the good guys.

I acknowledge that there can be limited circumstances where the previous and current processes may be obstacles, but there is no statistical evidence that this is the usual. The general statements given for the proposed changes on page 4 have not been demonstrated in any measurable way as the case over the years. In fact there seems to be no immediate need to rush.

- The existing zone change process discourages new development and capital investment in the City because of the uncertainty of the process.
- The existing process discourages zone change applications because full knowledge of the intended use is needed to determine the zoning, and it is too costly to develop detailed site plans, floor plans, elevations, etc. when the final user may not be known.
- Flagstaff has a low inventory of land suitable for development, and the current process tends to drive development to other communities.

Here are some suggestions before you pass this on to the council:

- Ask for pros and cons comparing the present process and the proposed process. This includes worse case scenarios where either process could be misused.
- Provide a current hypothetical scenario of this process; say for a zone change on the land either side of the north end of the 4th street bridge.
- Find some cities of comparable size to Flagstaff that have this process, and assess the results.
- Provide other evidence that the "Concept Zoning Plan" is useful and appropriate for Flagstaff.
- Define clearly how conditions applied to the "Concept Zoning Plan" by council can or cannot be changed after a time and perhaps after sale of the property.

We have grown under the existing code well over the years, so this is not a problem that needs to be rushed. There are folks that feel we are growing at a healthy rate and there are folks that may feel the faster we grow the better. My concern is that we grow in a health manageable way, but I am concerned this major change emphasizes faster over healthy. It needs further scrutiny.

Nat White